

**BAIL SLIP**

The Appellant, namely Jayaraman M/42/2016 S/o Muniyandi, has been released on bail, pending Appeal, as per order dated 10.06.2016 made in CrI.MP(MD)No.4495/2016 in CrI.RC(MD)No.358/2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON	19.03.2021
DELIVERED ON	01/04/21

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI
CrI.RC(MD)No. 358 of 2016

Jayaraman

...Revision petitioner/Petitioner

Vs.

The Inspector of Police,
Thirupachetty Police Station,
Sivangangai.

...Respondent/Respondent

PRAYER: Criminal Revision filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records from the Lower Courts and set aside the Judgment of the Appellate Court passed by the learned Mahila Judge, Sivagangai in C.A. No.53 of 2013, dated 20.04.2016 confirming the Judgment of the learned Chief Judicial Magistrate Court, Sivagangai in S.C. No. 76 of 2009, dated 13.12.2013 by allowing this revision.

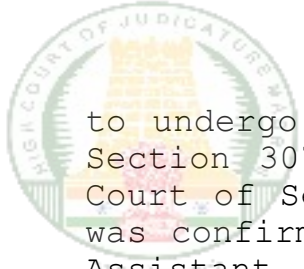
For Petitioner : Mr.G. Karuppasamy Pandiyan

For Respondent : Mrs. M. Anantha Devi
Government Advocate6 (crl. Side)

ORDER

This Criminal Revision Case has been filed to set aside the Judgment, dated 20.04.2016 in C.A. No.53 of 2013 passed by the learned Assistant Sessions Judge, Fast Track Mahila Court, Sivagangai, confirmed the Judgment, dated 13.12.2013 in S.C. No. 76 of 2009 passed by the learned Chief Judicial Magistrate Court, Sivagangai.

2. The revision petitioner/accused was tried for the offence under Section 307 of IPC, before the learned Chief Judicial Magistrate Court, Sivagangai, and the trial Court, in conclusion of the trial, found him guilty, convicted and sentenced to undergo rigorous imprisonment for Five Years and to pay a fine of Rs.1000/-in default



to undergo simple imprisonment for One month for the offence under Section 307 of IPC. The petitioner preferred an appeal before the Court of Sessions and the same was taken in C.A.No. 53 of 2013 and was confirmed by order, dated 13.12.2013 on the file of the learned Assistant Sessions Judge, Mahalir Fast Track Court, Sivagangai, confirming the conviction and sentence imposed by the trial Court. Aggrieved by the orders of the Courts below, the petitioner has preferred this revision case.

3. The brief fact of the case is that P.W.1 was having illicit intimacy with the wife of this revision petitioner/accused. Due to the said motive, on 07.10.2007, night at 09.30 p.m., this petitioner along with four others brought P.W.1 to field and thrown him into a well with intention to left over his life and also made a life threat. In the said occurrence P.W.1 sustained injuries on his right thigh. Based on the complaint given by PW1, a case in Crime No.155 of 2007 was registered by the respondent Police. After investigation, the respondent police has filed the final report for the offence under Section 307 of IPC and both the Courts below have convicted the petitioner/accused as stated supra.

4. The learned Counsel for the revision petitioner contended that P.W.5 who is the witness for arrest and confession of the accused. During his evidence, he categorically admitted that he neither known about the arrest nor the confession of the accused person. He further contended that the investigation officer has not shown any reason for not filing any special report to with held the other accused persons from the charge sheet. He prayed to allow the Criminal Revision Case.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that the prosecution has clearly established their case by way of examining witnesses P.W.1 to P.W.10 and marked documents Ex.P.1 to Ex.P.11. She further submitted that there is no reason to interfere with the Judgment of Court below and the same is liable to be confirmed and therefore, she prays for dismissal.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (crl. Side) for the respondent police and perused the material documents available on record.

7. The petitioner/accused has filed this Criminal revision case to set aside the Judgment, dated 20.04.2016 in C.A. No.53 of 2013 passed by the learned Mahila Judge, Sivagangai, confirmed the Judgment, dated 13.12.2013 in S.C. No. 76 of 2009 passed by the learned Chief Judicial Magistrate Court, Sivagangai.

8. The revision petitioner was charged for an offence under Section 307 of IPC. The petitioner was convicted and sentenced to undergo rigorous imprisonment for Five Years and to pay a fine of RS.1000/- in default to undergo simple imprisonment for One month for the offence under Section 307 of IPC.



9. The case of the prosecution is that P.W.1 was having illicit intimacy with the wife of this revision petitioner/accused. Due to the said motive, on 07.10.2007, night at 09.30 p.m., this petitioner along with four others brought P.W.1 to field and thrown him into a well with intention to left over his life and in the said occurrence P.W.1 sustained injuries on his right thigh.

10. Initially, the case was registered against five accused persons. But, after completing investigation, the respondent police has laid charge sheet against three accused persons. Out of three accused persons two of them were juvenile, the case was split up against this accused.

11. A complaint was preferred by brother of P.W.1(injured) against five accused persons. He is only a hear say witness. Injured person was examined as P.W.1. During his chief examination, he categorically admitted that there was no enmity between himself and the revision petitioner and in his cross examination also admitted that both of them are friends. He also deposed that three accused persons thrown him into the well and he had also admitted that the well is up to the level of floor. Previous motive was also denied by P.W.1.

12. As per P.W.2's evidence, in the place of occurrence he saw only three accused persons in the previous day night, but P.W.1 was not preent. Except, P.W.1 no other eye witness. All other witness also had admitted that the well is up to the floor level and anybody may fell in the well in a dark. Further, as per evidence of P.W.1 no enmity between P.W.1 and the revision petitioner. Nobody seen the accused with P.W.1 in the previous night. P.W.2 had stated that previously they had developed friendship with accused are of the confession witness and observation witness were turned hostile. Doctor was examined as P.W.8. He deposed that P.W.1 had stated that five persons thrown him into a well. The prosecution has not stated any reason as to why two of the accused were deleted in charge sheet and there is no proper explanation on the side of the prosecution. Looking at any perspective, no case is made out by the prosecution. The prosecution has failed to prove this case beyond reasonable doubt against this petitioner.

13. Both the Courts below wrongly came into conclusion that P.W.1 was found in a well by his brother. They do not consider that there may be a chance of falling down into the well since it is in the floor level. Therefore, this Court is inclined to allow the Civil Revision case.

14. Finally, this Criminal Revision Case is allowed and set aside the Judgment, dated 20.04.2016 in C.A. No.53 of 2013 passed by the learned Mahila Judge, Sivagangai, confirmed the Judgment, dated 13.12.2013 in S.C. No.76 of 2009 passed by the learned Chief Judicial Magistrate Court, Sivagangai. The petitioner/ accused is



acquitted from the charge framed against him. Fine amount, if any paid, shall be refunded and bail bonds, if any executed, shall stand terminated.

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Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To

1. The Additional Sessions Judge,
The Mahila Court, Sivagangai.
2. The Principal Sessions Judge, Sivagangai,
3. The Chief Judicial Magistrate Court, Sivagangai.
4. The Superintendent, Central prison, Madurai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
6. The Section Officer, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. 2 Copy

Order made in
Cr1.RC(MD)No. 358 of 2016

01.04.2021

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